

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
30918	46 App.:752.	Mar. 9, 1920, ch. 95, § 12, 41 Stat. 528; Aug. 30, 1954, ch. 1076, § 1(26), 68 Stat. 968; Pub. L. 97-31, § 12(25)(E), Aug. 6, 1981, 95 Stat. 155.

CHAPTER 311—SUITS INVOLVING PUBLIC VESSELS

Sec.	
31101.	Short title.
31102.	Waiver of immunity.
31103.	Applicable procedure.
31104.	Venue.
31105.	Security when counterclaim filed.
31106.	Exoneration and limitation.
31107.	Interest.
31108.	Arbitration, compromise, or settlement.
31109.	Payment of judgment or settlement.
31110.	Subpoenas to officers or members of crew.
31111.	Claims by nationals of foreign countries.
31112.	Lien not recognized or created.
31113.	Reports.

§ 31101. Short title

This chapter may be cited as the “Public Vessels Act”.

(Pub. L. 109–304, § 6(c), Oct. 6, 2006, 120 Stat. 1521.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
31101	46 App.:781 note.	

SHORT TITLE

Act of March 3, 1925, ch. 428, 43 Stat. 1112, which enacted chapter 22 (§ 781 et seq.) of the former Appendix to this title, was popularly known as the “Public Vessels Act”, prior to being repealed and restated in this chapter by Pub. L. 109–304, §§ 6(c), 19, Oct. 6, 2006, 120 Stat. 1509, 1710.

§ 31102. Waiver of immunity

(a) IN GENERAL.—A civil action in personam in admiralty may be brought, or an impleader filed, against the United States for—

- (1) damages caused by a public vessel of the United States; or
- (2) compensation for towage and salvage services, including contract salvage, rendered to a public vessel of the United States.

(b) COUNTERCLAIM OR SETOFF.—If the United States brings a civil action in admiralty for damages caused by a privately owned vessel, the owner of the vessel, or the successor in interest, may file a counterclaim in personam, or claim a setoff, against the United States for damages arising out of the same subject matter.

(Pub. L. 109–304, § 6(c), Oct. 6, 2006, 120 Stat. 1521.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
31102(a)	46 App.:781.	Mar. 3, 1925, ch. 428, § 1, 43 Stat. 1112.
31102(b)	46 App.:783 (words before proviso).	Mar. 3, 1925, ch. 428, § 3 (words before proviso), 43 Stat. 1112.

In this section, the words “civil action” are substituted for “libel” because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (a), the words “*Provided*, That the cause of action arose after the 6th day of April, 1920” are omitted as unnecessary.

In subsection (b), the words “in rem or in personam” are omitted as unnecessary. The words “file a counterclaim in personam, or claim a setoff” are substituted for “file a cross libel in personam or claim a set-off or counterclaim” to conform to the terminology in the Federal Rules of Civil Procedure and to eliminate unnecessary words. The words “for damages arising out of the same subject matter” are substituted for “in such suit for and on account of any damages arising out of the same subject matter or cause of action” to eliminate unnecessary words.

§ 31103. Applicable procedure

A civil action under this chapter is subject to the provisions of chapter 309 of this title except to the extent inconsistent with this chapter.

(Pub. L. 109–304, § 6(c), Oct. 6, 2006, 120 Stat. 1521.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
31103	46 App.:782 (last sentence words before last comma).	Mar. 3, 1925, ch. 428, § 2 (last sentence words before last comma), 43 Stat. 1112.

§ 31104. Venue

(a) IN GENERAL.—A civil action under this chapter shall be brought in the district court of the United States for the district in which the vessel or cargo is found within the United States.

(b) VESSEL OR CARGO OUTSIDE TERRITORIAL WATERS.—If the vessel or cargo is outside the territorial waters of the United States—

- (1) the action shall be brought in the district court of the United States for any district in which any plaintiff resides or has an office for the transaction of business; or
- (2) if no plaintiff resides or has an office for the transaction of business in the United States, the action may be brought in the district court of the United States for any district.

(Pub. L. 109–304, § 6(c), Oct. 6, 2006, 120 Stat. 1521.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
31104	46 App.:782 (1st sentence).	Mar. 3, 1925, ch. 428, § 2 (1st sentence), 43 Stat. 1112.

In subsection (a), the words “charged with creating the liability” are omitted as unnecessary.

In subsection (b)(2), the words “in the United States” are omitted as unnecessary.

§ 31105. Security when counterclaim filed

If a counterclaim is filed for a cause of action for which the original action is filed under this chapter, the respondent to the counterclaim shall give security in the usual amount and form to respond to the counterclaim, unless the court for cause shown orders otherwise. The proceedings in the original action shall be stayed until the security is given.

(Pub. L. 109–304, § 6(c), Oct. 6, 2006, 120 Stat. 1522.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
31105	46 App.:783 (proviso).	Mar. 3, 1925, ch. 428, §3 (proviso), 43 Stat. 1112.

The word “counterclaim” is substituted for “cross-libel”, and the words “original action” are substituted for “original libel”, to conform to the terminology in the Federal Rules of Civil Procedure (28 App. U.S.C.).

§ 31106. Exoneration and limitation

The United States is entitled to the exemptions from and limitations of liability provided by law to an owner, charterer, operator, or agent of a vessel.

(Pub. L. 109–304, §6(c), Oct. 6, 2006, 120 Stat. 1522.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
31106	46 App.:789.	Mar. 3, 1925, ch. 428, §9, 43 Stat. 1113.

§ 31107. Interest

A judgment in a civil action under this chapter may not include interest for the period before the judgment is issued unless the claim is based on a contract providing for interest.

(Pub. L. 109–304, §6(c), Oct. 6, 2006, 120 Stat. 1522.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
31107	46 App.:782 (last sentence words after last comma).	Mar. 3, 1925, ch. 428, §2 (last sentence words after last comma), 43 Stat. 1112.

§ 31108. Arbitration, compromise, or settlement

The Attorney General may arbitrate, compromise, or settle a claim under this chapter if a civil action based on the claim has been commenced.

(Pub. L. 109–304, §6(c), Oct. 6, 2006, 120 Stat. 1522.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
31108	46 App.:786.	Mar. 3, 1925, ch. 428, §6, 43 Stat. 1113.

The words “claim under this chapter” are substituted for “claim on which a libel or cross libel would lie under the provisions of this chapter” to eliminate unnecessary words.

§ 31109. Payment of judgment or settlement

The proper accounting officer of the United States shall pay a final judgment, arbitration award, or settlement under this chapter on presentation of an authenticated copy. Payment shall be made from any money in the Treasury appropriated for the purpose.

(Pub. L. 109–304, §6(c), Oct. 6, 2006, 120 Stat. 1522.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
31109	46 App.:787.	Mar. 3, 1925, ch. 428, §7, 43 Stat. 1113.

Reference to an arbitration award is added for consistency with sections 30912 and 31108 of the revised title.

§ 31110. Subpoenas to officers or members of crew

An officer or member of the crew of a public vessel may not be subpoenaed in a civil action under this chapter without the consent of—

(1) the Secretary of the department or the head of the independent establishment having control of the vessel at the time the cause of action arose; or

(2) the master or commanding officer of the vessel at the time the subpoena is issued.

(Pub. L. 109–304, §6(c), Oct. 6, 2006, 120 Stat. 1522.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
31110	46 App.:784.	Mar. 3, 1925, ch. 428, §4, 43 Stat. 1112.

§ 31111. Claims by nationals of foreign countries

A national of a foreign country may not maintain a civil action under this chapter unless it appears to the satisfaction of the court in which the action is brought that the government of that country, in similar circumstances, allows nationals of the United States to sue in its courts.

(Pub. L. 109–304, §6(c), Oct. 6, 2006, 120 Stat. 1522.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
31111	46 App.:785.	Mar. 3, 1925, ch. 428, §5, 43 Stat. 1113.

§ 31112. Lien not recognized or created

This chapter shall not be construed as recognizing the existence of or as creating a lien against a public vessel of the United States.

(Pub. L. 109–304, §6(c), Oct. 6, 2006, 120 Stat. 1522.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
31112	46 App.:788.	Mar. 3, 1925, ch. 428, §8, 43 Stat. 1113.

§ 31113. Reports

The Attorney General shall report to Congress at each session thereof all claims settled under this chapter.

(Pub. L. 109–304, §6(c), Oct. 6, 2006, 120 Stat. 1523.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
31113	46 App.:790.	Mar. 3, 1925, ch. 428, § 10, 43 Stat. 1113; Aug. 30, 1954, ch. 1076, § 1(26), 68 Stat. 968.

CHAPTER 313—COMMERCIAL INSTRUMENTS AND MARITIME LIENS**SUBCHAPTER I—GENERAL**

Sec.	Definitions.
31301.	Availability of instruments, copies, and information.
31302.	Certain civil actions not authorized.
31303.	Liability for noncompliance.
31304.	Waiver of lien rights.
31305.	Declaration of citizenship.
31306.	State statutes superseded.
31307.	Secretary of Commerce or Transportation as mortgagee.
31308.	General civil penalty.

SUBCHAPTER II—COMMERCIAL INSTRUMENTS

31321.	Filing, recording, and discharge.
31322.	Preferred mortgages.
31323.	Disclosing and incurring obligations before executing preferred mortgages.
31324.	Retention and examination of mortgages of vessels covered by preferred mortgages.
31325.	Preferred mortgage liens and enforcement.
31326.	Court sales to enforce preferred mortgage liens and maritime liens and priority of claims.
31327.	Forfeiture of mortgagee interest.
[31328.]	Repealed.]
31329.	Court sales of documented vessels.
31330.	Penalties.

SUBCHAPTER III—MARITIME LIENS

31341.	Persons presumed to have authority to procure necessities.
31342.	Establishing maritime liens.
31343.	Recording and discharging notices of claim of maritime lien.

HISTORICAL AND REVISION NOTES

Section 101 [102] of H.R. 3105 [became Pub. L. 100-710] revises, consolidates, and enacts certain general and permanent laws of the United States related to commercial instruments and liens and public vessels and goods. It amends subtitle III of title 46, United States Code by striking at the end “Chapters 313, 315—Reserved” and substituting “Chapter 313—Commercial Instruments and Maritime Liens”. Chapter 313 is essentially a codification of the Ship Mortgage Act, 1920 (46 App. U.S.C. 911-984). H.R. 3105 is the second step in the process of enacting laws compiled in title 46 of the Code into positive law. The first step in the codification process began in 1983 when certain general and permanent laws related to vessels and seamen were enacted as subtitle II of the title 46, United States Code.

HOUSE FLOOR STATEMENT

Section 102 of this bill adds a new subtitle III to title 46, which contains a codification of the Ship Mortgage Act, 1920 and other related provisions. A previous version of this codification and the remaining sections of the bill were recently reported by the Merchant Marine and Fisheries Committee in H.R. 3105 (H. Rept. 100-918). The significant additions or changes by this provision to the version of H.R. 3105 reported by the Merchant Marine and Fisheries Committee are explained as follows: [see sections 31305, 31321, 31322, 31325, 31329, 31330, 31343 of this title].

AMENDMENTS

2002—Pub. L. 107-295, title II, § 205(a)(2), Nov. 25, 2002, 116 Stat. 2096, substituted “notices of claim of mari-

time lien” for “liens on preferred mortgage vessels” in item 31343.

1996—Pub. L. 104-324, title XI, § 1113(b)(3), Oct. 19, 1996, 110 Stat. 3970, struck out item 31328 “Limitations on parties serving as trustees of mortgaged vessel interests”.

SUBCHAPTER I—GENERAL**§ 31301. Definitions**

In this chapter—

(1) “acknowledge” means making—

(A) an acknowledgment or notarization before a notary public or other official authorized by a law of the United States or a State to take acknowledgments of deeds; or

(B) a certificate issued under the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, 1961;

(2) “district court” means—

(A) a district court of the United States (as defined in section 451 of title 28);

(B) the District Court of Guam;

(C) the District Court of the Virgin Islands;

(D) the District Court for the Northern Mariana Islands;

(E) the High Court of American Samoa; and

(F) any other court of original jurisdiction of a territory or possession of the United States;

(3) “mortgagee” means—

(A) a person to whom property is mortgaged; or

(B) when a mortgage on a vessel involves a trust, the trustee that is designated in the trust agreement;

(4) “necessaries” includes repairs, supplies, towage, and the use of a dry dock or marine railway;

(5) “preferred maritime lien” means a maritime lien on a vessel—

(A) arising before a preferred mortgage was filed under section 31321 of this title;

(B) for damage arising out of maritime tort;

(C) for wages of a stevedore when employed directly by a person listed in section 31341 of this title;

(D) for wages of the crew of the vessel;

(E) for general average; or

(F) for salvage, including contract salvage;

(6) “preferred mortgage”—

(A) means a mortgage that is a preferred mortgage under section 31322 of this title; and

(B) also means in sections 31325 and 31326 of this title, a mortgage, hypothecation, or similar charge that is established as a security on a foreign vessel if the mortgage, hypothecation, or similar charge was executed under the laws of the foreign country under whose laws the ownership of the vessel is documented and has been registered under those laws in a public register at the port of registry of the vessel or at a central office; and

(7) “Secretary” means the Secretary of the Department of Homeland Security, unless otherwise noted.